



STATE BOARD OF EQUALIZATION

December 15, 1952

C--- & G---
Certified Public Accountants
XXX South --- Street
--- --- XX, California

Attention: Mr. S. G---

Gentlemen:

You inquire as to your client's possible sales tax liability on merchandise which is lost due to either breakage, spillage, or mysterious disappearance in the operation of a bar.

Section 6094 of the California Sales and Use Tax Law provides, in substance, that if a purchaser gives a resale certificate and makes any use of the property other than retention, demonstration, or display while holding it for sale in the regular course of business, the use constitutes a retail sale by him as of the time the property is first used, and the cost of the property to him shall be deemed the gross receipts from such retail sale. Where property is lost due to fire, theft, breakage, spillage, or is otherwise not resold but there has not been any intervening taxable use, the tax liability provided for in Section 6094 is not applicable. Of course, the retailer is expected to maintain adequate records and the asserted involuntary loss must be bona fide.

Very truly yours,

W. W. Mangels
Assistant Counsel

WWM:ja
cc: Los Angeles – Tax Administrator